

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HOLLY REIN,)
Plaintiff,)
v.)
THRIFTY PAYLESS, INC., d/b/a RITE)
AID PHARMACY, and RITE AID LEASE)
MANAGEMENT COMPANY, d/b/a RITE)
AID,)
Defendants,)
THRIFTY PAYLESS, INC., d/b/a RITE)
AID PHARMACY, and RITE AID LEASE)
MANAGEMENT COMPANY, d/b/a RITE)
AID,)
Third-Party Plaintiffs,)
v.)
DURO HILEX POLY, LLC, a Delaware)
corporation,)
Third-Party Defendant)

))
CASE NO. 2:19-cv-00522-BJR
ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL DISCOVERY
OF VIDEO FOOTAGE RITE AID
ALLEGEDLY HAS OF PLAINTIFF AND
FOR SANCTIONS

Before the Court is Plaintiff's Motion to Compel Rite Aid to produce surveillance video taken of Plaintiff in this personal injury case, and for sanctions for not producing the video sooner.

1 Mot. to Compel, Dkt. No. 127. The Court has recounted the background of this case in previous
2 orders. *See Order*, Dkt. No. 97 at 2–3.

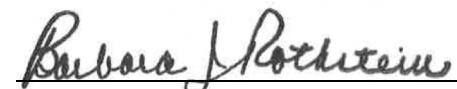
3 Rite Aid responds that it should not be compelled to produce any surveillance video taken
4 of Plaintiff because it does not intend to use the video during the upcoming trial in this matter, and
5 the video is protected by attorney work product privilege. *See* Rite Aid's Resp. to Pl.'s Mot. to
6 Compel, Dkt. No. 130.

7 Surveillance video, such as that allegedly taken of Plaintiff by Rite Aid's investigator in
8 anticipation of trial, is protected work product. *See Fletcher v. Union Pac. R.R. Co.*, 194 F.R.D.
9 666, 670 (S.D. Cal. 2000). Pursuant to Federal Rule of Civil Procedure 26(b)(3), a Plaintiff may
10 compel production of such privileged evidence only if they can show “substantial need for the
11 materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent
12 by other means.” FED. R. CIV. P. 26(b)(3)(A)(ii); *see also Fletcher*, 194 F.R.D. at 670–71. Plaintiff
13 does not need the video to prepare for trial as Rite Aid has stated that it does not intend to use the
14 video at trial. *Fletcher*, 194 F.R.D. at 672. As Plaintiff claims no other need for the video in
15 question, the Court finds she has failed to show substantial need.

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17 The Court hereby DENIES Plaintiff's Motion to Compel and Motion for Sanctions.

18 SO ORDERED.

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20 DATED this 17th day of June, 2021.

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23 BARBARA J. ROTHSTEIN
24 UNITED STATES DISTRICT JUDGE
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